

U.S. Department of Labor

Office of Administrative Law Judges
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Issue date: 14Jun2002

CASE NO.: 2001-LHC-02411

OWCP NO.: 01-152203

In the Matter of

ROBERT JONES

Claimant

v.

ELECTRIC BOAT CORPORATION

Employer/Self-Insured

ORDER DENYING RECONSIDERATION OF AWARD OF ATTORNEY'S FEES

On April 12, 2002, the District Director served the parties with a Supplemental Decision and Order Awarding Attorney's Fees to the Claimant which I issued in the above matter under the Longshore and Harbor Workers' Compensation Act, as amended, 33 U.S.C. §901, *et seq.* (the "Act").

By letter dated April 25, 2001, counsel to the Claimant, Scott N. Roberts, submitted an Amended Application for Attorney Fees incurred in connection with the successful prosecution of this claim. In this application, Attorney Roberts requested a total fee of \$2,397.50 based on 8.75 hours of attorney time at \$250.00 per hour and 3.00 hours of paralegal time at \$70.00 per hour.

By letter dated May 2, 2002, counsel to the Employer, James T. Hornstein, filed an objection to the amended application for attorney fees stating that Attorney Roberts' requested hourly rate of \$250.00 is unreasonable and that I should apply the usual, standard, and customary rate of \$200.00 per hour. Nothing further has been received from either party, and the matter is now ready for decision.

The fee application and approval process under the Act is governed by 20 C.F.R. §702.132 which states in pertinent part,

The application shall be supported by a complete statement of the extent and

character of the necessary work done, described with particularity as to the professional status (e.g., attorney, paralegal, law clerk, or other person assisting an attorney) of each person performing such work, the normal billing rate for each such person, and the hours devoted by each such person to each category of work. Any fee approved shall be reasonably commensurate with the necessary work done and shall take into account the quality of the representation, the complexity of the legal issues involved, and the amount of benefits awarded.

See also Brown v. Marine Terminal Corp., 30 BRBS 29, 34 (1996); *Newport News Shipbuilding & Dry Dock Co. v. Graham*, 573 F.2d 167 171 (4th Cir. 1978), *cert. denied*, 439 U.S. 979 (1978); *Ayers Steamship Co. v. Bryant*, 544 F.2d 812, 814 (5th Cir. 1977).

Under the Rules of Practice and Procedure, in a case arising under the Act, a timely motion for reconsideration is one which is filed not later than ten (10) days from the date the decision or order was filed in the Office of the District Director. *See* 20 C.F.R. §802.206(b)(i); *Bogdis v. Maritime Terminals Corp.*, 23 BRBS 136, 138 (1989). Moreover, if the motion for reconsideration is sent by mail and the fixing of the date of delivery as the date of filing would result in a loss or impairment of reconsideration rights, it will be considered to have been filed as of the date of mailing. *See* 20 C.F.R. §802.206(c). The record in this matter indicates that the Supplemental Decision and Order of April 11, 2002, was filed and served by the District Director on April 12, 2002. As such a timely motion for reconsideration must have been filed, or mailed, no later than April 22, 2002. The record reflects that the Claimant's motion was mailed on April 25, 2002. Therefore, the Claimant's motion for reconsideration is untimely. Accordingly, the motion for reconsideration is denied.

ORDER

The Claimant's motion for reconsideration of the Supplemental Decision & Order of April 11, 2002, is DENIED.

SO ORDERED.

A

DANIEL F. SUTTON
Administrative Law Judge

Boston, Massachusetts
DFS:cmm

